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THE MARKET FOR DEADBEATS

MARGARET F. BRINIG and F. H. BUCKLEY*

ABSTRACT

This article outlines three explanations for why states seek migrants and tests them by reference to 1985–90 interstate migration flows. On race-for-the-top theories, states compete for value-increasing migrants by offering them healthy economies and efficient laws. On vote-seeking theories, states compete for clienteles of voters, with some states seeking to attract and some to deter welfare- or tax-loving migrants. On deadbeat theories, states compete for high human capital debtors by offering them a fresh start from out-of-state creditors. Our findings support vote-seeking and deadbeat theories.

THIS article asks how states attract and repel migrants. We assume that states have an interest in the identity of their subjects, for migration changes life for natives as well as for migrants. Because migrants might confer external gains or impose external costs on natives, immigration states have an incentive to attract desirable and repel undesirable migrants. The result is a race to the top if the state adopts efficient policies to attract value-increasing migrants. The most prominent example of such a theory is Frederick Jackson Turner's frontier thesis,¹ under which western U.S. states adopted liberal laws and democratic values to attract migrants from eastern states.

The race need not be to the top, however. A state might compete for migrants on the basis of their expected political sympathies, and not for their ability to benefit natives. For example, a pro-welfare political party might seek to attract pro-welfare migrants through the promise of wealth transfers from wealthy natives. In this way, an unpopular politician might

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¹ F. J. Turner, *The Frontier in American History* (reprint 1986).

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seek to prorogue an existing electorate and elect a new one more to his liking. This kind of migration is unlikely to result in efficiency gains and consumes deadweight moving costs.

A race to the bottom might also result from a competition for deadbeat migrants. We define a deadbeat as one who crosses state lines to avoid repayment of a debt. The debt might be a consumer loan owed to a financing company, a personal loan from a friend, or an obligation of spousal or child support. Given collection costs, moving away increases the probability that the creditor will write off the debt as a bad debt. The debtor might also reduce the probability of repayment by moving to a state with pro-debtor insolvency laws. We suggest that the prospect of deadbeat migration might lead a state to adopt pro-debtor laws. Deadbeats are often entrepreneurs or professionals with high future earnings, and the cost of their default is born primarily by out-of-state creditors. Gains to natives from deadbeat migration might thus exceed the costs borne by native debtors and creditors on the enactment of inefficient insolvency laws.

Prior law and economics scholarship has ignored the competition for migrants. In this article we begin to repair this omission. In Section I, we describe the market for migrants. The competition for migrants is benign when states seek to attract value-increasing migrants by enacting efficient laws. However, the competition may be value-reducing when it is for migrant votes or for deadbeats. In Section II, we report on an econometric study of recent interstate migration trends. Our predictors of migration flows include distance, temperature, economic conditions, welfare and tax policies, as well as pro-deadbeat laws. The results of our econometric analysis are presented in Section III. Our principal finding is that recent migration flows are consistent with deadbeat and tax-motivated migration theories.

I. THE MARKET FOR MIGRANTS

A market for migrants exists when immigration or emigration states tailor their policies to attract a favored or repel a disfavored class of migrants. In the past, states competed for migrants through insolvency laws and homestead rights. Today, a state might compete for low-income migrants through higher welfare payouts² or for high-income migrants

² Some states adopt a more active policy to deal with unwanted natives, paying moving expenses when they leave the state. Laurence R. Stains, *The Latinization of Allentown*, Pa., N.Y. Times Magazine, May 15, 1994, at 56, 59–60.

through lower tax burdens. In addition, states might still compete for migrants through pro-deadbeat laws.

Migration offers several benefits for the immigration state. During the colonial period, and for much of the nineteenth century, America experienced labor shortages and looked to migration, particularly from Europe, for fresh workers.³ Through migration, America resolved border problems with Canada and Mexico and reduced the threat of Indian wars.⁴ Fresh migrants also promoted scale economies, with better schools, increased markets for products, and improved methods of transportation. With the advent of modern welfare and fiscal legislation, migration effected a wealth transfer from emigration to immigration state natives. Migrants were relatively young, industrious, and healthy. After their schooling in the emigration state, they moved to their new state, where they worked for a relatively long time before they retired. The emigration state subsidized their education but lost them as taxpayers, while the immigration state gained people who contributed more in taxes and consumed less in welfare benefits than natives.⁵

The claim that migration benefits natives is more controversial today than in the past. Economies of scale are more speculative, congestion costs are greater, and several states now seek restrictions on international immigration. But this is not to say that the market for migrants has disappeared. Even states that seek to exclude international migrants might still want internal (or interstate) migrants, the subject of this study. Finally, a state takes a position in the market for migrants when it seeks to deter their entry through changes in legal policies.

Moving is costly, and for most of us the migration decision is made deliberately and soberly, not unadvisedly and lightly. From this, we might wrongly conclude that few people move, and never because of differences

³ See David W. Galenson, *White Servitude in Colonial America: An Economic Analysis* (1981); David W. Galenson, *Traders, Planters and Slaves* (1986); Frank Craven Wesley, *Red, White and Black: The Seventeenth Century Virginian* (1971); Richard S. Dunn, *Servants and Slaves: The Recruitment and Employment of Labor, in Colonial British America: Essays in the New History of the Early Modern Era* (Jack B. Greene & J. R. Pole eds. 1984).

⁴ See Douglas W. Allen, *Homesteading and Property Rights*; or, "How the West Was Really Won," 34 *J. Law & Econ.* 1 (1991).

⁵ There is considerable evidence that international immigration has benefited natives. See Julian Simon, *The Economic Consequences of Immigration* (1989). The current debate about immigration centers on whether post-1980 immigrants are as valuable as their predecessors. See George J. Borjas, *Friends or Strangers: The Impact of Immigration on the Economy* (1990) (arguing that recent immigrants are less skilled and more likely to rely on welfare than pre-1980 immigrants).

in legal regimes. But over our lives we do move often, and not infrequently across state lines. In 1990, nearly 40 percent of Americans were living in a different state from the one in which they were born.⁶ The migration decision should thus be seen from a life-cycle perspective, as the sum of all moving decisions made over the course of one's life. So viewed, moving is less painful than it might seem at the moment of the move and the last walk away from the family house. For migrants, the psychic costs of moving might indeed be exceeded by those of staying put. The influence of socioeconomic predictors on the migration decision may also be more easily seen from a life-cycle perspective. We might think we can offer a full explanation of our last move by reference to wholly personal considerations: education, a marriage, a better job offer. But if we should try to say how it is that, born where we were, we ended up where we are, we might find it easier to refer to broad social and economic factors. And that is what our model seeks to do.

A. *The Race for the Top*

On race-for-the-top theories, states might compete for valuable migrants by offering them efficient legal and governmental institutions. Even emigration states will copy such institutions, the better to retain valued subjects. Thus, the competition for migrants is seen to result in a race to adopt the best set of laws.⁷

Race-for-the-top migration theories were first stated by Frederick Jackson Turner just over one hundred years ago. The 1890 census report had noted a curious change in American society. Up to that point, the demographer could always point to a settlement line, beyond which the pioneer had not ventured. But by 1890, this line had disappeared, with only small and isolated frontier areas remaining. Thereafter, the frontier passed into history, and 3 years later, at the Chicago Exposition, Turner delivered the seminal paper in American historiography on how the frontier had shaped American institutions. States competed for migrants,

⁶ Kristin A. Hansen, Bureau of the Census, Selected Place of Birth and Migration Statistics for States CPH-L-121 (1990), table 1. This number would be smaller if one excluded the seniors who move on retirement; however, the number would be larger if one included the children born to migrants in the new state.

⁷ Race-for-the-top explanations of the market for migrants resemble race-for-the-top theories in corporate law. Most large American corporations choose to incorporate in Delaware. At one time, it was thought that this was because Delaware law was slanted toward managers and against shareholders. But this view has not withstood empirical scrutiny, and most commentators today believe that the greater popularity of Delaware's corporations law stems from its greater efficiency. See Roberta Romano, *The Genius of American Corporate Law* (1993).

Turner said. To attract them, they liberalized their laws and adopted free and democratic institutions.⁸ Western states led the way, and eastern states followed once they began to lose migrants to the more democratic Western states. Well before modern public choice scholarship, Turner described how migrants vote with their feet and how states compete for subjects.⁹ His insight that the competition for migrants shaped domestic institutions remains relevant today. Even if all American states have adopted democratic institutions, there remains a broad variance in taxation levels, welfare payouts, legal rules, and governance structures.¹⁰

B. The Race for the Bottom

On race-for-the-top theories, state enact efficient laws in order to attract migrants; on race-for-the-bottom theories, states enact inefficient laws to do so. The first race-for-the-bottom theory is a vote-seeking one, under which migrants are inefficiently sought for their future votes. Vote-seeking theories plausibly account for shifts in U.S. international immigration policies¹¹ and may also explain internal migration policies. Thus a pro-welfare political party might court welfare-loving migrants through the promise of high welfare payouts, while antiwelfare parties might seek welfare-haters through reduced welfare benefits. Similarly, antitax parties will court antitax migrants, while protax parties will court migrants who support government spending, especially if their taxes are low in a progressive regime.¹² The result is a cooperative game in which different parties in different states trade off voters in the manner of the Jack Spratt

⁸ Western states sought migrants of both sexes and offered women the franchise and community property laws. Michael J. Vaughn, *The Policy of Community Property and Inter-spousal Transactions*, 19 *Baylor L. Rev.* 20 (1967); Susan W. Prager, *Sharing Principles and the Future of Marital Property Law*, 25 *U.C.L.A. L. Rev.* 1 (1977). In the debate over the California Constitution, one delegate urged support for community property laws because "I do not think we can offer a greater inducement for women of fortune to come to California. It is the very best provision to get us wives." M. R. Kirkwood, *Historical Background and Objectives of the Law of Community Property in the Pacific Coast States*, 11 *Wash. L. Rev.* 1, 10 (1936).

⁹ The modern theory of voting with one's feet dates from C. M. Tiebout, *A Pure Theory of Local Expenditures*, 64 *J. Pol. Econ.* 416 (1956). For a review of current scholarship, see Dennis C. Mueller, 2 *Pub. Choice* 154–70 (1989).

¹⁰ For an econometric study of how differences in state governmental structures affect tax and spending levels, see W. Mark Crain & Timothy J. Muris, *Legislative Organization of Fiscal Policy*, 38 *J. Law & Econ.* 311–33 (1995).

¹¹ See F. H. Buckley, *The Political Economy of Immigration Policies*, 16 *Int'l Rev. L. & Econ.* (1996, in press).

¹² Vote-seeking theories are somewhat weakened by evidence that welfare recipients are less likely to vote than other people. See Elaine Sharp, *Exit, Voice & Loyalty*, 37 *W. Pol. Q.* 67 (1980).

family at table. In neither state will welfare payouts or tax rates be as low or as high as they would be in a world of closed borders.¹³

Second, deadbeat pathologies might infect the market for migrants. Migration policies which are privately optimal for an immigration state may not be socially optimal, when losses borne in the emigration state are taken into account. Thus, an immigration state might compete for migrants by permitting them, once they have moved, to cut off claims owed to emigration state creditors. This might be done through fresh start rights in bankruptcy and family law which permit the debtor to shelter future income from his creditors and first wives and children. While socially wasteful, this may be privately optimal for immigration state natives. The offer to cut off creditor claims will be more valuable for high-quality debtors, with high future earnings. Because of the promise to cut off creditor claims, more of them will move to the immigration state, and they will be richer, having left their creditors behind them. As taxpayers and employers in their new state, they will confer pecuniary benefits on natives which may exceed the losses to native creditors and debtors as a consequence of inefficient insolvency policies.

Deadbeats are not an unmixed blessing for the immigration state. Having stiffed his creditors once, the deadbeat may be tempted to do so again, this time at the expense of immigration state creditors. Because of this, some states may wish to discourage their entry by restricting fresh start rights. In this way, states may sort themselves into Kingdoms of Cooperation and Republics of Defection. Any test of the hypothesis that some states seek to attract deadbeat migrants by strengthening fresh start rights is simultaneously a test of the hypothesis that other states seek to deter their entry and encourage their emigration by weakening such rights.

1. *Bankruptcy Deadbeats.* Countries may compete for deadbeats through their bankruptcy laws. For example, fresh start policies in the American Bankruptcy Code are more pro-debtor than those of rival immigration states, such as Canada. American debtors are given a broad right to elect between Chapter 7, where present assets are surrendered and future earnings retained, and Chapter 13, where present assets are retained and future earnings are committed to creditors. An opportunistic creditor will elect strategically, choosing the option which maximizes his wealth. Thus, a debtor with few present assets but great expectations

¹³ Vote-seeking explanations of welfare payouts overlap with bureaucratic explanations of welfare policies, in which the crucial support for antipoverty measures comes not from welfare recipients but from welfare administrators. William A. Niskanen, *Bureaucracy and Representative Government* 36–42 (1971); Sam Peltzman, *Toward a More General Theory of Regulation*, 19 J. Law & Econ. 211 (1976).

will seek a fresh start under Chapter 7 even if over time he could repay his debts. By contrast, the Canadian discharge may be suspended or granted conditionally in order to transfer a portion of the debtor's future earnings to creditors.¹⁴

Cross-country differences in legal norms appear to explain why Canadian consumer bankruptcy filing rates are lower than those in the United States, for the higher American rates cannot be attributed to differences in economic variables.¹⁵ Regional differences in the way in which legal norms are enforced might also explain differences in filing rates within the United States.¹⁶ Debtor opportunism is ostensibly policed through good faith norms under the Bankruptcy Code.¹⁷ These norms were strengthened in 1984, when § 707(b) permitted a court to reject petitions which constituted "a substantial abuse."¹⁸ This has been interpreted to mean that a Chapter 7 filing may be set aside if the debtor proposes to maintain an exorbitant lifestyle or is able to pay off a substantial portion of his debt under Chapter 13.¹⁹ In spite of this, the 1984 amendments coincided with an enormous increase in filing rates. Between 1984 and 1991, a period of substantial prosperity, consumer filings rates under Chapter 7 tripled.²⁰ While some bankruptcy courts adhered to the reinforced good faith norms, others appeared to pay little attention to them, granting a discharge to debtors who might have repaid all their debts without undue hardship. For example, one court refused to dismiss a Chapter 7 petition under § 707(b) even though the debtors had enough income to repay all claims within 3 years.²¹ There are also differences in the way in which bankruptcy trustees interpret good faith norms.²²

Migration theories usefully explain how fresh start policies came to be introduced in America. Before the Revolution, and during the period of the Articles of Confederation, American provinces appear to have com-

¹⁴ Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, sec. 172, as amended by Stat. Can. 1992, c. 27.

¹⁵ See F. H. Buckley, *The American Fresh Start*, 4 S. Cal. Interdisciplinary L. J. 67 (1995).

¹⁶ The mean state filing rate for 1985-90, divided by the adult population, is 11.721, with a standard deviation of 5.773. For a study of the determinants of personal bankruptcy, see F. H. Buckley & Margaret F. Brinig, *The Bankruptcy Puzzle* (working paper, George Mason University Law School 1995).

¹⁷ See Buckley, *supra* note 15.

¹⁸ 11 U.S.C. § 707(b).

¹⁹ See *In re Kelly*, 841 F.2d 908 (9th Cir. 1988); *In re Walton*, 86 F.2d 981 (8th Cir. 1989).

²⁰ See generally Buckley, *supra* note 15.

²¹ *Re Fortune*, 130 Bankr. R. 525 (Bankr. C.D. Ill. 1991).

²² See Wayne R. Wells, Janell M. Kurtz, & Robert J. Calhoun, *The Implementation of Bankruptcy Code Section 707(b): The Law and the Reality*, 39 Clev. St. L. Rev. 15 (1991).

peted for migrants through generous insolvency legislation. The Contracts Clause of the Constitution was adopted to prevent interstate exploitation of this kind, but state laws fettered creditor collection efforts throughout the nineteenth century.²³ Many states, particularly in the West and South, made the homestead exempt from seizure for prehomestead debts.²⁴ Today, what remains of such laws are state law exemptions from bankruptcy. Bankruptcy Code § 522(d) offers debtors a presumptive list of assets which they may shelter against unsecured creditors. However, § 522(b) permits states to opt out of this list, and about two-thirds have done so, some to narrow and some to widen the list of exempted assets. In some states, for example, debtors may shelter only \$7,500 in their house from unsecured creditors; but in other states there is no ceiling on the value of the homestead exemption.²⁵ Not surprisingly, wealthy debtors have taken advantage of these differences to move to high exemption states.²⁶

2. *Family Deadbeats.* Family deadbeats seek to avoid legal obligations, abandoning their wives and children to public welfare or private charity.²⁷ They were the immigrants who never sent back for their wives and the pioneers who cast off their families to move West. They lived lives without second acts and gave us the laws of support, alimony, and divorce.²⁸ For them, the West offered freedom from family responsibilities as well as the political freedom of the frontier thesis. Even today, nearly a quarter of family support cases involve deadbeat dads who have crossed a state line.²⁹

²³ See Buckley, *supra* note 15.

²⁴ See Seymour D. Thompson, *A Treatise on Homestead and Exemption Laws* (1878); Joseph W. McKnight, *Protection of the Family Home from Seizure by Creditors: The Sources and Evolution of a Legal Principle*, 86 Sw. Hist. Q. 369 (1983).

²⁵ Compare Fla. Const. Art X, § 4; N.Y. Civ. Prac. Law § 5206(a).

²⁶ See Denise M. Topolnicki & Elizabeth M. Macdonald, *The Bankruptcy Bonanza!* Money, August 1993, at 82.

²⁷ For a recent example of a woman who went on welfare for more than 2 years when her husband failed to pay child support, see Sandra Evans, *For Va. Woman, Welfare Wasn't an Easy Ride*, Washington Post, February 2, 1995, at B1, col. 1.

²⁸ In the nineteenth century, Western states competed for migrants and divorce litigation by enacting liberal divorce laws. See Glenda Riley, *The Female Frontier: A Comparative View of the Prairie and the Plains* 81 (1988). The pressure for lax divorce laws in the West was hastened by informal "remarriages," without the benefit of a formal divorce. Like the informal corporation, bigamous marriages were a "shadow" institution in matrimonial law with much lower transaction costs. See Henry Butler, *Nineteenth Century Jurisdictional Competition in the Granting of Corporate Privileges*, 14 J. Legal. Stud. 139 (1985); Lawrence J. Friedman & Robert Percival, *Who Sues for Divorce?* 5 J. Legal Stud. 61, 69 (1976).

²⁹ In 1992, the total number of cases in which support orders were enforced or modified was 4.37 million. Of these, almost a million involved interstate collections. Department of Health and Human Services, Office of Child Support Enforcement, *Seventeenth Annual Report to Congress* (1992), at 69, table 2, & 148-49, tables 81 and 82.

Deserted wives can assert a variety of remedies against their spouses. Desertion was always a ground of divorce,³⁰ and states mandated child support obligations. There is, however, a wide variance among states in family support obligations, and deadbeat spouses have an incentive to move to low-payout and low-collection states.³¹ Where the deadbeat can be located, Uniform Reciprocal Enforcement of Support statutes provide an expeditious remedy for the deserted spouse, without court filings and attorney costs.³² The social service agency in the home state simply sends a copy of the decree mandating the obligation to the state where the defendant lives. But states do not all enforce foreign awards in the same way. In some states, awards are frequently reduced, particularly when the defendant has remarried and has a new family in the responding state.³³ Even with reciprocal enforcement of support laws, then, a state might compete for divorced spouses through the promise of reduced support obligations.

II. THE EMPIRICAL TEST

These hypotheses offer different predictions about migration patterns. Race-for-the-top theories predict that states with expanding economies will attract migrants and that stagnant states with high tax will repel them. States might also compete for migrants through their legal institutions, and on race-for-the-top theories, the winner of the competition will have the most desirable set of laws. Of course, such theories would be circular if the only evidence of a statute's efficiency was the migration flow itself. Vote-seeking theories predict that some states will seek to attract migrants through high welfare payouts, while other states will attempt to

³⁰ See *Owens v. Owens*, 96 Va. 191, 195, 31 S.E. 72, 74 (1898).

³¹ Relaxed divorce requirements, particularly the enactment of no-fault divorce laws, encourage opportunistic behavior on the part of spouses with the least to lose by divorce. See Margaret F. Brinig & Steven M. Crafton, *Opportunism in Marriage*, 23 J. Legal Stud. 859 (1994).

³² See L. 1952, c. 516 (Virginia); Md. Laws (1957) art. 89C, § 1. The more modern version of the Virginia law is the Uniform Reciprocal Enforcement of Support Act, Va. Code Ann. §§ 20-88.12-20-88.31, now replaced by the Interstate Family Support Act, Va. Code Ann. §§ 20-88.32. Both were mandated by the federal Social Security Act, Child Support Enforcement Assistance Amendments, 42 U.S.C. § 658, which also imposed standards for child support awards.

³³ See *Fleming v. Fleming*, 49 N.C. App. 345, 271 S.E.2d 584 (1980); Sandra Evans, *Candidates' Positions on Social Services Reflect Differences of National Parties*, Washington Post, October 24, 1989, at B1. State barriers to enforcement of support obligations explain why many plaintiffs vigorously pursue substitute mechanisms with much higher transaction costs, such as long-arm jurisdiction. See *Kulko v. Superior Court*, 436 U.S. 84 (1978). In addition, states continue to enact legislation extending jurisdiction so that the forum state will be able to render final judgments that merely need execution in the obligor's state. See Va. Code Ann. §§ 8.01-328.1(8) & (9).

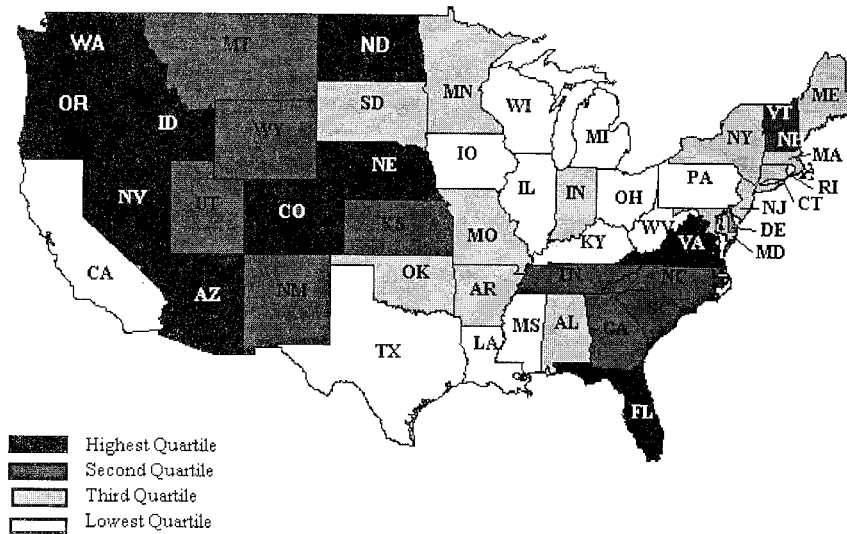


FIGURE 1.—Interstate immigration, 1985–91

export them through low welfare payouts. In the same way, states might trade off voters through differential tax burdens. Finally, deadbeat theories predict that deadbeat migrants will move to deadbeat havens, which offer debtors increased protection against creditors. At the same time, antideadbeat states, which deny a fresh start to debtors, may attract their own antideadbeat migrants, who seek a civil society with a smaller number of opportunists. Such migrants would be repelled by deadbeat states.

A. The Migration Flow

Our migration models examine the 1985–90 migration flow in the continental United States, based on Census Bureau data.³⁴ Our first model asks what attracted people to the states to which they immigrated. The dependent variable is IMMIG, the total number of people during that period who moved from State_{*i*} to State_{*j*}, divided by State_{*j*} population. Since we looked at the migrants from the perspective of State_{*j*}, our predictors were State_{*j*} variables. In our second model, the dependent variable is EMIG, the total number of people who left State_{*i*}, divided by State_{*i*} population. Here we asked why migrants moved from State_{*i*}. We looked for pushes rather than pulls, and our predictors were State_{*i*} variables.

³⁴ See Hansen, *supra* note 6, table 4.

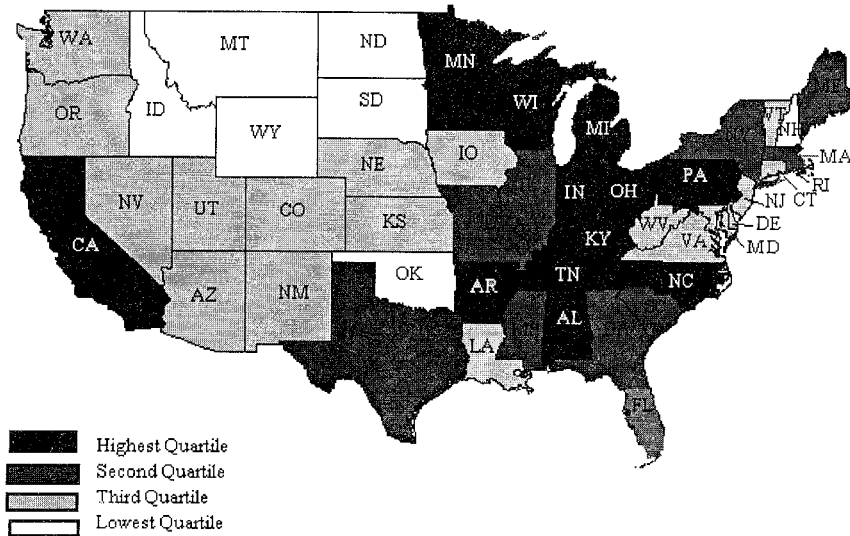


FIGURE 2.—Interstate emigration, 1985–91

We are not aware of any other migration study which has looked at migration flows from both directions.

For both models, we excluded people who moved from their state after 1985 but returned to it by 1990. In addition, a person who made more than two interstate moves during that period was counted as a single migrant in the census study. Because of the higher moving costs, we also excluded migration into or out of Alaska, Hawaii, and offshore territories. For each of the remaining 48 states, then, migrants might have moved to any one of 47 different states. In this way, we constructed two tables with 2,256 observations each. Figures 1, 2, and 3, while less specific, permit an overview of migration flows.

The 1985–90 migration flow is the most current available data on interstate migration in the United States. By 1990, a total of 21,585,297 Americans were living in a different state from the one they had lived in 5 years before.³⁵ The period is a useful one for the purpose of testing migration theories. It coincided with an enormous increase in American wealth,

³⁵ *Id.* This amounted to 9.4 percent of the 1985 resident population. See Statistical Abstract of the United States 27 (1993). For 1975–80 migration flows, the comparable figure was 9.7 percent. See Statistical Abstract of the United States 16 (1985). Over the last 10 years, the mobility rate of Americans has declined, likely as a consequence of the increase in average age. See Diana DeAre, Geographical Mobility, in U.S. Bureau of the Census, Population Profile of the United States 1993 (1993), at 10–11, figs. 9 & 10.

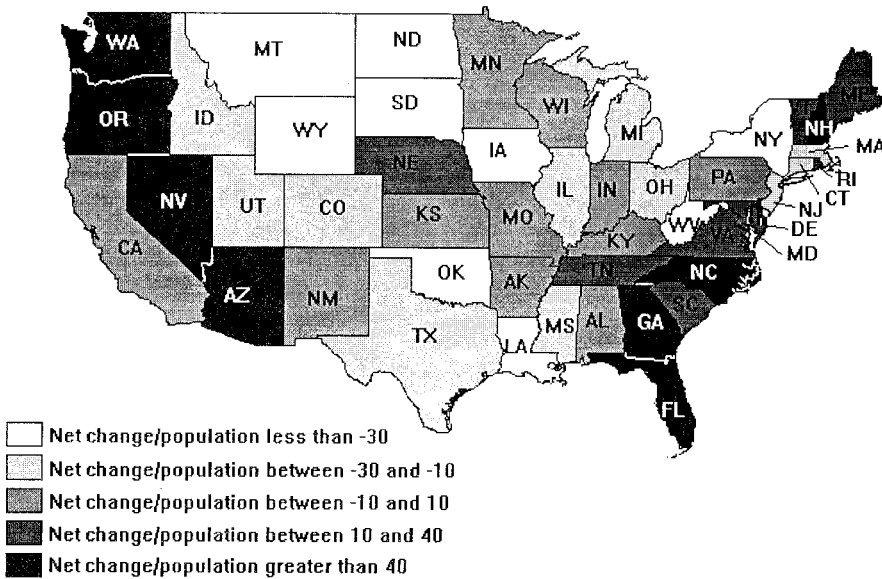


FIGURE 3.—Net interstate migration, 1985–91

with large interstate variations. It was also a time of tax revolt, when state tax burdens differed markedly from each other. In addition, there was substantial variance in state welfare payouts. Finally, the period coincided with an enormous increase in bankruptcy filings and divorce petitions, again with a substantial variance in state filing rates.

B. The Determinants of Migration

We considered several different classes of predictors of migration patterns. Our environmental predictors included distance, temperature, population density, and the percentage of the population over 65. Our economic predictors were based on figures for construction and employment growth. To test vote-seeking theories, we included welfare, state tax, and state debt predictors. Finally, to test deadbeat theories, our predictors included Chapter 7 consumer bankruptcy petitions and in-state child support collection rates. We describe these predictors in detail below.

Unless indicated, the source for the independent variables was the Statistical Abstract of the United States, 1986–94, with 1985 figures selected for our independent variables. While the dependent variable in our model is total 1985–90 interstate migration per capita population, using 1985 predictors reduced endogeneity concerns.³⁶ Under endogeneity,

³⁶ On endogeneity, see Damodar N. Gujarati, *Basic Econometrics* 573–77 (2d ed. 1988).

causation works in both directions, and a change in the value of the dependent variable results in a change in the value of a predictor. For example, migrants are attracted to states with booming economies, as measured by relatively high construction figures. But fresh migrants also mean increased construction, since they will need new homes to live in and offices to work in. Had we used post-1985 figures, then, a finding that the construction variable was significant would have been ambiguous. We also transformed the values of the nondummy variables into their natural logs, after determining through a Box-Cox test that this was appropriate.³⁷

1. *Environmental Predictors.* Since migration costs increase with the distance traveled, we included a Distance predictor, measured by the driving distance between state capitals. A state's capital is usually closer to its population center than is its largest city.³⁸ We included a Temperature variable to test whether the migration trends to sunbelt states continue, independent of other predictors. As a measure of Temperature, we took the average January high temperature from 1961 to 1990 in the largest city of each state, since state capital data were not always available. We chose January highs because these were the year's lowest, and we thought that weather-motivated migrants would be most sensitive to winter weather. To measure migration flows to and from urban states, we included a Metropolitan variable, representing the extent to which a state was urbanized. Finally, we adopted an Elderly variable for the percentage of a state's over-65 population. Some of the cross-border moves represented postretirement migration, and we assumed that a state's 1985 proportion of elderly people might serve as a proxy for a retirement haven.

2. *Economic Predictors.* Race-for-the-top theories predict that migration patterns are sensitive to economic conditions. The model's economic proxies were Construction, the dollar value of completed commercial and residential construction contracts for new structures and additions, divided by the adult population; and Employment Growth, the percentage change in nonfarm employment in a state from 1984 to 1985. More than other predictors, such as unemployment rates, these two variables plausibly identify growing economies.

³⁷ Box-Cox transformations are discussed in George C. Judge, R. Carter Hill, William E. Griffiths, Helmut Lütkepohl, & Tsoung-Chao Lee, *Introduction to the Theory and Practice of Econometrics* 555–56 (2d ed. 1987). See also G. S. Maddala, *Introduction to Econometrics* 220–22 (2d ed. 1992).

³⁸ The difference is more important for moves between adjoining states than for cross-country moves. For example, the move from Albany, N.Y., to Trenton, N.J., is 172 miles, while the distance from New York City to Newark, N.J., is 9 miles.

3. *Vote-Seeking Predictors.* Vote-seeking politicians might compete for welfare-loving migrants by offering them relatively high welfare payouts. At the same time, politicians who seek the support of welfare haters might be tempted to reduce welfare payouts below what they would be in a world of closed borders. As a proxy for welfare, AFDC represents the average monthly welfare payout under the Aid for Families with Dependent Children program. There is a substantial variance in state AFDC payments, with a mean payout of \$293.60 a month per dependent family and a standard deviation of \$102.50.³⁹

States also compete for migrants by lowering or raising their tax burden. The Tax variable represents total state and municipal tax receipts from all sources excluding federal transfer payments, divided by the adult population.⁴⁰ Under Ricardian equivalence theories,⁴¹ a state's debt load represents anticipated future taxes. Since we sought to test whether the total tax burden attracts or repels migrants, we added a Debt variable, representing outstanding state indebtedness as of 1985, divided by the adult population. The mean Tax figure is \$1,613 per adult, with a standard deviation of \$472; the mean Debt figure is \$1,372 per adult, with a standard deviation of \$892.

4. *Bankruptcy Deadbeats.* We hypothesize that some migrants are attracted to states which are more ready to discharge debtors. While American bankruptcy law is a matter of federal statute, there are significant variations in state filing rates which do not appear attributable to differential economic conditions. On the hypothesis of deadbeat migration, then, state bankruptcy filing rates should be positively correlated with migration flows.

For our bankruptcy deadbeat predictor, we employed personal filing rates under Chapter 7 of the Bankruptcy Code. We assumed that a lax bankruptcy state could most easily be identified by a higher filing rate, after taking into account the influence of macroeconomic variables. We excluded the less frequently employed consumer petitions under Chapters 11 (reorganizations) or 12 (farmers). We also excluded Chapter 13 plans, which consign a portion of the debtor's future earnings to pay off present debts. On average, debtors propose to pay about half of their

³⁹ Because of data limitations, we were unable to adjust AFDC payouts for differences in state cost of living.

⁴⁰ Bureau of the Census, *Government Finances in 1985-86* (1987).

⁴¹ See Robert J. Barro, *Are Government Bonds Net Wealth?* 48 J. Pol. Econ. 1095 (1974); John J. Seater, *Ricardian Equivalence*, 31 J. Econ. Lit. 142 (1993).

debts under Chapter 13,⁴² far more than under Chapter 7.⁴³ Because the Chapter 13 debtor sacrifices part of his fresh start rights, we believe that he will be less tainted by debtor opportunism than his Chapter 7 counterpart.⁴⁴

As a measure of state filing rates, one might select either 1985 filings or 1985–90 total filings. While the first choice minimizes endogeneity concerns, it misses the spectacular run-up of consumer filings over the period of the migration study. For this reason, our Chapter 7 variable reflects total filings from 1985–90.⁴⁵ Since children do not go bankrupt, we arrived at our per capita filing rate by dividing the filing figures by the adult population. We addressed the endogeneity problem through a three-stage least squares system of equations procedure, estimating the Chapter 7 filing rate through independent instrumental predictors. A Hausman test confirmed our suspicions that both the Chapter 7 and the Family Deadbeat predictors were endogenous.⁴⁶

The move to 1985–90 filings assisted in another way. Bankruptcy filing rates might ordinarily be thought to signal a depressed economy more than a lax legal regime. If so, we would expect bankruptcy predictors to be negatively correlated with migration flows. During the 1985–90 period, however, consumer bankruptcy filing rates seemed divorced from economic reality. The threefold run-up in filing rates largely overlapped with the 7 fat years of the Reagan economic recovery. We suggest, therefore, that the run-up is attributable to noneconomic factors. To evidence this, we conducted an econometric study of annual Chapter 7 filing rates,

⁴² See Teresa Sullivan, Elizabeth Warren, & Jay Westbrook, *As We Forgive Our Debtors: Bankruptcy and Consumer Credit in America* 213–17 (1989). Under Bankruptcy Code § 1325(b), a court must reject a Chapter 13 plan if an unsecured creditor objects and the plan does not provide for payment of all of the debtor's disposable income for the next 3 years to creditors.

⁴³ In a study of 1979–82 personal bankruptcy filings, Michelle White reported that unsecured creditors received nothing 97 percent of the time, and on average received only 0.11 percent of their claims. See Michelle J. White, *Personal Bankruptcy under the 1978 Bankruptcy Code: An Economic Analysis*, 63 Ind. L. J. 1, 38–39 (1987).

⁴⁴ Many Chapter 13 cases are converted to Chapter 7 cases, and these do not show up in our Chapter 7 figures. See Sullivan, Warren, & Westbrook, *supra* note 42, at 215 (noting that about a third of the Chapter 13 cases the authors examined had already failed and another third were “troubled”). If the point is to measure bad intentions at filing, however, the initial choice is a better signal of debtor opportunism than a subsequent conversion decision, which will often result from a change of circumstances.

⁴⁵ Administrative Office of the U.S. Courts, Statistics Division, *Business and Non-business Bankruptcy Cases Commenced: By Chapter of the Bankruptcy Code* (various years).

⁴⁶ The Hausman specification test appears in Judge *et al.*, *supra* note 37, at 851.

TABLE 1

CONSUMER BANKRUPTCY FILINGS: ORDINARY LEAST SQUARES REGRESSIONS
(Dependent Variable: Annual Consumer Chapter 7 Bankruptcy Filing Rates)

INDEPENDENT VARIABLES	REGRESSION			
	(1)	(2)	(3)	(4)
Year	.19857 (11.25)*	...	...	.14926 (8.970)*
Metropolitan	.14407 (1.997)*	...	...	.11705 (1.663)*
Construction	-.049097 (-.4276)	.11695 (.9993)	...	...
Employment Growth	.032030 (.09890)	-.024016 (-.05492)	...	...
Unemployment	.86949 (7.170)*	.83962 (6.349)*	.6944 (6.266)*	...
Gross State Product	-.087886 (-.5984)	.58000 (3.153)*	...	...
AFDC	.33400 (3.834)*	-.075561 (-.7104)	...	...
Divorce	.96733 (7.555)*	...	...	1.1036 (11.12)*
Case	.035863 (.6262)	...	...	-.030298 (-.4770)
Constant	-5.4526 (-3.249)*	-2.1477 (-.9511)	-.55654 (-2.827)*	-2.0887 (-6.089)*
R ² (adjusted)	.5394	.1466	.1207	.4090

NOTE.— $N = 288$. The dependent variable represents total personal Chapter 7 filings for each year from 1985 to 1990 divided by the adult population for that year. Year represents each year during that period. Metropolitan is the percent of people in a state living in an urban area. Construction is the value of commercial and residential construction contracts for projects completed within the year, divided by adult population. Employment Growth refers to percentage nonagricultural job growth. Unemployment is the average monthly unemployment rate. The Gross State Product figure is divided by adult population. AFDC is the average payment under the Aid for Families with Dependent Children program. Divorce is the annual divorce rate per 1,000 population. The Case law dummy variable takes the value of 1 if bankruptcy courts within a state appear to adopt lax barriers to debtor opportunism under Bankruptcy Code § 707(b), and 0 otherwise. All variables have been transformed into their natural logs except for the Case dummy. *t*-statistics are in parentheses.

* Significantly different from zero at the 5 percent level (two-tailed test).

with the results reported in Table 1. Our principal finding, that economic predictors explain little of the state-to-state variance in Chapter 7 filing rates from 1985 to 1990,⁴⁷ is consistent with our assumption that the Chapter 7 variable is primarily a deadbeat one.

We then conducted two regressions of migration flows on migration

⁴⁷ We arrived at a similar conclusion in a subsequent study of the determinants of personal Chapter 7 filing rates from 1980–91 in Buckley & Brinig, *supra* note 16.

predictors. In Table 2, the dependent variable is IMMIG, while Table 3's dependent variable is EMIG. To predict bankruptcy filing rates in our System equation, we employed seven instrumental variables: Metropolitan, Construction, Unemployment, AFDC, Employment Growth, Gross State Product, and Divorce. Metropolitan, Construction, and AFDC predictors have been described above. Unemployment is the average monthly unemployment rate. The Gross State Product figure was arrived at by dividing the total figure by the adult population.⁴⁸ The Divorce predictor represents the average number of divorces per 1,000 population.⁴⁹ Relying on economic predictors is straightforward, since one would expect a greater number of bankruptcies in an economic downturn. For similar reasons, we would expect higher bankruptcy rates where the social safety net, as measured by AFDC payments, is more generous. We would also expect divorce and bankruptcy rates to be correlated, since some bankruptcies result from divorce.⁵⁰

5. Family Deadbeats. We suggest that deadbeat migrants might also be attracted to jurisdictions which permit them to scale back family obligations. Because states differ widely in the extent to which they enforce support obligations and subsidize collection efforts, we chose the percentage of unpaid child support orders as our Family Deadbeat variable. Since data for prior years was unavailable, we used 1990 figures.⁵¹ Such unpaid debts were as high as 85 percent in Florida and as low as 0 percent in Iowa. The recent example of Virginia shows how sensitive collection rates are to state collection efforts. In the early 1980s, Virginia ranked thirteenth in the child support collection. But after state funding was cut in 1986, the state fell to forty-ninth place.⁵² After this decline became a political issue in 1989, Virginia's collection rates improved dramatically.⁵³

Since our use of 1990 data introduced endogeneity concerns, we separately estimated Family Deadbeats in our three-stage least squares equa-

⁴⁸ Gross State Product is the gross market value of the goods and services attributable to assets and labor within a state and is the state counterpart of the nation's Gross Domestic Product.

⁴⁹ United States Department of Commerce, Bureau of the Census, Statistical Abstracts (1987), at 84, table 128.

⁵⁰ For findings that bankrupts have a higher divorce rate than other Americans, see I Report of the Commission on Bankruptcy Laws of the United States 42 (1973).

⁵¹ Department of Human Services, Office of Child Support Enforcement, Sixteenth Annual Report to Congress (1991).

⁵² See Sandra Evans, Candidates Positions on Social Services Reflect Differences of National Parties, Washington Post, October 24, 1989, at B1; Peter Baker, A License to Collect in Va.; State Targets Professionals Owing Child Support, Washington Post, August 16, 1994, at A1.

⁵³ See Baker, *supra* note 52.

TABLE 2
INTERSTATE IMMIGRATION: THREE-STAGE LEAST SQUARES SYSTEM EQUATIONS

VARIABLE	DEPENDENT VARIABLE					
	Immigration/Pop Equation (1)		Chapter 7 Bankruptcies Equation (2)		Family Deadbeats Equation (3)	
	Coefficient	t-Statistic	Coefficient	t-Statistic	Coefficient	t-Statistic
Chapter 7 Bankruptcies	.38537	5.867*	...	...	...	...
Family Deadbeats	.31693	3.699*	...	...	...	...
Distance	-.9554	-28.82*	...	...	...	...
Temperature	.17052	1.061	...	...	...	...
Metropolitan	-.49867	-6.772*	...	...	...	...
Elderly	.16325	.7783	-.008	-.3373	-.19869	-3.462*
Construction	1.1965	12.46*	...	...	...	...
Employment Growth	.46774	1.517	.2719	6.26*	...	...
AFDC	.59492	6.049*	-.72389	-7.164*	...	...
Tax	-.65476	-5.633*	.16914	5.489*	.40785	5.219*
Debt	.01641	.3217	...	...	...	...

Unemployment	...	...	1.0993	23.14*	-.92062	-9.835*
Gross State Product	...	...	.45878	6.573*	...	...
Divorce	...	...	.67966	15.14*	1.1513	12.51*
Unwed Births	...	...	...	...	1.1716	9.253*
Under 18	...	...	...	...	.2576	1.075
Infant Mortality	...	...	...	...	.1194	.5132
Working Women	...	...	...	...	-.7609	-4.557*
Joint Custody Dummy	...	...	...	...	-.42018	-9.53*
Constant	-.191	-.1726	.04644	.1152	.66413	.8251
R^2		.2707		.5006		.1338
System χ^2		2,718.1				

NOTE.— $N = 2,163$. Equation (1)'s dependent variable is total 1985–90 immigration into State J from State J divided by State J population. The independent variables are based on State J figures. Figures from 1985 were used for all independent variables, except for Chapter 7 Bankruptcies, Family Deadbeats, and Temperature. Chapter 7 Bankruptcies are total State J 1985–90 personal bankruptcy filings for cases commenced under Chapter 7 of the U.S. Bankruptcy Code divided by the adult population. Family Deadbeats is the 1990 percentage of unpaid family support obligations. Distance is the driving distance between state capitals, and Temperature is the average mean January high temperature for 1960–90. Metropolitan, Construction, Employment Growth, Unemployment, Gross State Product, AFDC, and Divorce are defined in the same manner as in Table 1. Elderly is the percentage of the population over 65. Tax is state taxes from all state and local sources (but excluding federal transfer payments), and Debt is total state indebtedness. Both Tax and Debt figures are divided by adult population. Under 18 is the percentage of the population under the age of 18, and Working Women is the percentage of working-age women who are employed. The Joint Custody Dummy takes the value of 1 if state law promotes joint custody, and 0 otherwise. All variables have been transformed into their natural logs except for dummy variables.

* Significantly different from zero at the 5 percent level (two-tailed test).

TABLE 3

INTERSTATE IMMIGRATION: THREE-STAGE LEAST SQUARES SYSTEM EQUATIONS

VARIABLE	DEPENDENT VARIABLE					
	Emigration/Pop Equation (1)		Chapter 7 Bankruptcies Equation (2)		Family Deadbeats Equation (3)	
	Coefficient	<i>t</i> -Statistic	Coefficient	<i>t</i> -Statistic	Coefficient	<i>t</i> -Statistic
Chapter 7 Bankruptcies	-.1526	-2.111*	...	...	...	...
Family Deadbeats	-.099	-1.030	...	...	...	...
Distance	-.86261	-24.35*	...	...	...	...
Temperature	.16685	1.176	...	...	...	...
Metropolitan	-.16872	-2.365*	.0776	2.821*	-.067966	-1.183
Elderly	.92975	4.299*	...	...	...	...
Construction	.53069	4.891*	.27000	6.632*	...	...
Employment Growth	-133.47	-7.235	-847.26	-13.66*	...	...
AFDC	-.16899	-7.761*	.09535	3.827*	.091635	1.385
Tax	1.0938	-7.771*	...	...	...	...
Debt	-.22304	-4.011*	...	...	...	...
Unemployment	...	...	.99394	21.09*	-1.3115	-12.14*
Gross State Product	...	...	.29800	3.343*	...	...
Divorce	...	...	.77097	17.41*	.91255	10.60*
Unwed Births	...	...	...	...	1.3667	9.841*
Under 18	...	...	...	...	.56262	1.832
Infant Mortality	...	...	...	...	-.003203	-.01409
Working Women	...	...	...	...	-.71185	-3.775*
Joint Custody Dummy	...	...	...	...	-.21598	-4.377*
Constant	620.65	.7291	3,907	13.65*	1.3335	.8656
R^2		.2284		.5411		.1252
System χ^2		117.3				

NOTE.— $N = 2,162$. Equation (1)'s dependent variable is total emigration from State I to State J divided by State I population. The independent variables are based on State I figures and are all defined in the same manner as in Table 2. All variables have been transformed into their natural logs except for dummy variables.

* Significantly different from zero at the 5 percent level (two-tailed test).

tion, using nine instrumental variables: Metropolitan, Unemployment, AFDC, Divorce, Unwed Births, Under 18, Infant Mortality, Working Women, and Joint Custody. The temptation to default on personal support obligations is presumably stronger when AFDC payments are relatively high, and there is a greater incentive to share support duties with the state.⁵⁴ We would also expect to see a larger number of family deadbeats in high-divorce states, on the assumption that those more likely to breach marriage vows are more likely to cheat their families in other ways.⁵⁵ Similarly, we would anticipate a positive correlation between family deadbeat variables and the Unwed Birth rate, measuring the percentage of births to unwed mothers. A man who is unwilling to marry the mother of his children is less likely to support them financially.⁵⁶ On the positive side, we would expect to see fewer family deadbeats in states which prescribe joint custody orders for children on divorce. Noncustodial parents are less likely to pay child support since it is harder for them to monitor the way their payments are spent.⁵⁷ As well, the more time one spends with a child, the stronger the attachment and the greater the willingness to pay child support.⁵⁸ Our Joint Custody Dummy variable took the value of 1 if the relevant family law statute promoted joint custody orders, and 0 if not. Other predictors of Family Deadbeats were more ambiguous. A higher percentage in the Under 18 population might possibly mean better collection mechanisms, assuming economies of scale. We might also expect to see a positive correlation between the Infant Mortality rate and Family Deadbeats. Many studies have reported a relationship between a parent's attachment to his children and the likelihood that they will survive to adulthood.⁵⁹ However, we may be measuring different parents here. Infant mortality is more closely related to

⁵⁴ The incentive to dump one's family onto the state is weakened when state agencies pursue deadbeat dads. See Barbara Vobejda, *Gauging Welfare's Role in Motherhood*, *Washington Post*, June 2, 1994, at A1.

⁵⁵ For a study of the determinants of divorce, see Margaret F. Brinig & F. H. Buckley, *Divorce, Legal Rules, and Free Spirits* (working paper, George Mason University Law School 1995).

⁵⁶ More than 90 percent of the children of divorcing parents live with their mothers. The number is even higher for the children of parents who have never been married.

⁵⁷ Yoram Weiss & Robert J. Willis, *Children as Collective Goods and Divorce Settlements*, 3 *J. Lab. Econ.* 267 (1985).

⁵⁸ Margaret F. Brinig & Michael V. Alexeev, *Trading at Divorce: Preferences, Legal Rules and Transaction Costs*, 8 *Ohio St. J. Dispute Res.* 279 (1993).

⁵⁹ See Philippe Aries, *Centuries of Childhood* (1962); John Demos, *The American Family in Past Time*, 43 *Am. Scholar* 422 (1974); Viviana Zelitzer, *Pricing the Priceless Child: The Changing Social Value of Children* (1985); Margaret F. Brinig, *Finite Horizons: The American Family*, 2 *Int'l J. Children's Rights* 293 (1994).

maternal behavior, while family deadbeat variables generally measure paternal behavior. We might expect more family deadbeats with a higher Working Women figure, measuring the percentage of adult women in the labor force,⁶⁰ since women will have a stronger incentive to work when their husbands fail to support them. However, working women are less likely to need spousal support, have more power within individual marriages, and are more apt to share child rearing responsibilities with their spouse, all of which suggest a negative relationship.

III. RESULTS

In this section we examine the results of our regressions. We look first at Table 1's regression of socioeconomic predictors on annual bankruptcy filing rates. Since economic predictors appear unable to account for the variation in state filing rates under Chapter 7, we conclude that our bankruptcy variable may plausibly be regarded as a deadbeat predictor. That is, differences in state filing rates may in part be attributed to differences in social and legal sanctions for debtor opportunism. Tables 2 and 3 then report on what attracts migrants to their immigration state and repels them from their emigration state.

A. Are Chapter 7 Filing Rates a Deadbeat Predictor?

As a predictor of migration flows, Chapter 7 filing rates are ambiguous. They might serve as a proxy for lax legal and social barriers to debtor opportunism. States with high filing rates would then attract deadbeat migrants and repel migrants seeking more reputable neighbors. But Chapter 7 filing rates might also serve as a proxy for general economic conditions, with higher rates signaling a depressed economy which would repel migrants.

Because we sought to show that Chapter 7 filing rates were a deadbeat predictor, we regressed them on socioeconomic variables, with the results reported in Table 1. Our dependent variable in this table is consumer bankruptcy filings for each year from 1985 to 1990 divided by adult population. For the independent variables, we also provided separate figures for each year, defined as they were in Section IIB. The table also includes a time trend, Year. In addition, we added a Case law dummy constructed from 77 reported 1985-90 decisions under Bankruptcy Code § 707(b), as a proxy for differential legal barriers to bankruptcy. Our Case law dummy takes the value of 1 when bankruptcy courts in the state have adopted a

⁶⁰ U.S. Bureau of the Census, Current Population Survey (various years).

relatively lax interpretation of § 707(b), and 0 otherwise.⁶¹ If differential bankruptcy filing rates can be attributed to differences in legal barriers, then, we would expect that the Case law coefficient would be positive in value.

Our principal result in Table 1 is that economic predictors appear to explain relatively little of the variance in the Chapter 7 Bankruptcy filing rates. Among economic predictors in the first regression, reported in column 1, only Unemployment has the expected sign and is significant. This is true again of the second regression, in column 2, where the economic predictors are cross-sectioned. By itself, in the third regression, Unemployment explains only 12.1 percent of the variance in state filing rates. These results are consistent with other studies of American consumer bankruptcy filing rates.⁶²

By contrast, the social and legal predictors in the fourth regression explain 40.9 percent of the variance in filing rates. The Year and Divorce predictors are both significant at the 1 percent level, while the Metropolitan predictor is significant at the 5 percent level. Unlike the social predictors, the Case law dummy variable is insignificant, with an expected positive sign in the first equation, but with a negative sign in the fourth equation.

We do not think it useful to speculate about the extent to which the variance in filing rates is attributable to social as opposed to legal norms. Social predictors do not exist in a legal vacuum and are themselves influenced by legal norms, while legal norms are influenced by the level of social sanctions. For example, a court might reasonably enunciate an apparently lax good faith standard under Bankruptcy Code § 707(b) in a state where social sanctions adequately deter debtor opportunism. In any event, our sample of 1985–90 § 707(b) cases is small: only 77 cases from 28 states.

Our study says nothing about the determinants of bankruptcy prior to 1985. Other studies, using macroeconomic and demographic predictors, have explained considerably more of the variance in pre-1985 filing rates than we were able to do in our study.⁶³ We believe that the reason for this is that the decisive shift in filing rates came after 1985, through a relaxation of social and legal sanctions, and not in 1980 with the introduction of the new Bankruptcy Code. As well, we did not employ a personal leverage ratio predictor, as the other studies did. We did not have state

⁶¹ A table of the cases is available from the authors on request.

⁶² See Buckley & Brinig, *supra* note 16.

⁶³ See Ian Domowitz & Thomas L. Eovaldi, *The Impact of the Bankruptcy Reform Act of 1978 on Consumer Bankruptcy*, 36 J. Law & Econ. 803 (1993).

data on the level of consumer debt financing. But we would not have employed a personal leverage predictor even if it had been available. High personal leverage ratios are more plausibly a consequence than a cause of high consumer bankruptcy filing rates. On a shift toward a laxer legal regime, rational debtors will respond by increasing personal leverage ratios, for the penalty for default will have been weakened. We would therefore expect filing rates and leverage ratios to be strongly endogenous.

B. What Factors Influence Migration Flows?

Our empirical results on the determinants of migration are found in Tables 2 and 3, which report on a system of regression equations in which the values of the bankruptcy and family deadbeat variables, as well as the migration flow to particular states, are jointly estimated.⁶⁴ The dependent variable in the first equation of Table 2 is per capita immigration into a state, while the dependent variable in the first equation of Table 3 is per capita emigration from a state. In both tables, the second and third equations estimate Chapter 7 personal bankruptcy filings and the percentage of unpaid family support obligations, respectively.

The principal result in Table 2, which predicts about 27 percent of the variance in immigration flows, is that 1985–90 interstate immigration is consistent with deadbeat theories. Both deadbeat predictors are significant and positive, suggesting that deadbeat regimes attract migrants. In Table 3, which predicts 23 percent of emigration flows, both deadbeat coefficients are negative, and the Chapter 7 variable is significant. Through a high filing rate, then, a state might reduce emigration and increase immigration.

We had expected that our model would have greater success in explaining immigration than emigration. The emigration decision is more likely to have emotional consequences than the immigration decision, since we have more at stake in present homes than in the several states to which we might move. Because of this, the emigration decision is more likely determined by personal considerations than the immigration decision. We therefore place more stock in the Table 2 than the Table 3 results, particularly the finding of significant positive coefficients for the two deadbeat predictors.

Because our model is in log-log form (with dependent and independent

⁶⁴ All regression analysis for this article paper was performed on SHAZAM. K. J. White, SHAZAM: A Comprehensive Computer Program for Regression Models (Version 6), Computational Statistics & Data Analysis, December 1988. Data and analyses are available on request from the authors.

variables both transformed into natural logarithms), the coefficients measure the elasticities of the dependent variables with respect to the predictors.⁶⁵ That is, the percentage change in immigration or emigration flows for a slight change in the value of a predictor is its coefficient. We may therefore turn to the standardized coefficients of the variables for a measure of their explanatory power, with a higher coefficient indicating that the migration flow is more sensitive to a slight change in the value of the variable. In Table 2, only three variables have a higher standardized coefficient than the deadbeat variables.⁶⁶ While standardized coefficients are generally lower in emigration Table 3, the standardized deadbeat coefficients remain larger than those of Temperature, Employment Growth, Metropolitan, and AFDC.⁶⁷

These findings might even understate the attractiveness of deadbeat institutions. Apart from signaling a lax legal regime, high rates of Chapter 7 Bankruptcies and of Family Deadbeats might in part reflect depressed economic conditions. In an economic downturn, we would expect an increased number of bankruptcies and a reduced level of family support. We might then have expected to find that deadbeat coefficients were negative in Table 2 and positive in Table 3. But their signs were just the opposite. This might explain the positive Family Deadbeat coefficient in Table 3. In addition, a high deadbeat value might signal a coarser and less virtuous state. Morals and manners differ greatly from one country to another, and there is no reason to think that the values of Californians and Virginians must be the same. Even as some deadbeats are attracted to deadbeat states, then, antideadbeats will be attracted to more virtuous states. These might also explain why we were unable to detect a significant coefficient for our Family Deadbeat predictor in Table 3. As for the Chapter 7 Bankruptcy predictor, the finding of a significant positive coefficient in Table 2 and of a significant negative one in Table 3 once again stands out in sharper relief.

Even though we separately estimated Chapter 7 Bankruptcy rates in the second equation of Table 2, we had continued concerns about endogeneity. We had sought to show that migrants were attracted to deadbeat states but recognized that causation might run the other way. Perhaps bankruptcy rates are higher in high immigration states because the immi-

⁶⁵ See Gujarati, *supra* note 36.

⁶⁶ These are Distance (0.54) and Construction Starts (0.30). The standardized coefficient for Chapter 7 Bankruptcies is 0.17 and for Family Deadbeat is 0.24.

⁶⁷ The Table 3 standardized coefficients are as follows: Chapter 7 Bankruptcies (−0.07); Family Deadbeat (−0.07); Elderly (0.11); Metropolitan (−0.05); Distance (−0.48); Temperature (−0.04); Construction (0.11); Tax (0.19); Debt (−0.11); AFDC (0.05); Employment Growth (−0.02).

grants themselves are more likely to file for bankruptcy.⁶⁸ To address this concern, we reestimated the immigration flows of Table 2, using 1985 bankruptcy filing rates rather than total 1985–90 filing rates as we had originally done. Once again, both deadbeat predictors were significant and positive,⁶⁹ suggesting that migrants did indeed seek out deadbeat states.

Migrants appear to regard high state taxes as an unambiguous bad. The Tax coefficient in Table 2 is significant and negative, and it is significant and positive in Table 3. Migrants emigrate from high tax states to low tax ones. In contrast, high Debt values, measuring state debt loads per adult, are associated with significantly reduced emigration. These results appear inconsistent with Ricardian equivalence theories, under which taxpayers are indifferent between tax and debt financing by a state.⁷⁰ We can think of three possible explanations for this curious result. First, Ricardian equivalence might hold, and our variable might simply not provide an accurate measure of a state's debt burden. If the debt burden represents future tax liabilities, then what matters is the anticipated income streams of state residents in the future. To estimate this, we should want to know how prosperous and what the future population of the state will be. We do not know the answer to the first question and are here trying to estimate the second. Second, Ricardian equivalence might hold, but the future tax burden might be reflected in reduced land prices. Thus a migrant from a high-Debt to a low-Debt state would expect to pay smaller taxes in the future, but more for his house now. To the extent

⁶⁸ The endogeneity problem was less of a concern for Table 3, where the prediction was ambiguous. Assuming that migrants are more likely to go bankrupt, we might have expected to see a lower bankruptcy rate in a high emigration state because the high-risk population has declined. In contrast, we might have expected to see a higher bankruptcy rate in a high emigration state, as opposed to a more neutral state, because there is a greater percent of possible migrants in the former state, some of whom have not yet migrated.

⁶⁹ The equation (with *t*-statistics in parentheses) is $\text{IMMIG} = 0.3699 \text{ SEVEN85} (5.386) + 0.2825 \text{ Family Deadbeat} (3.362) - 0.9543 \text{ Distance} (-28.81) + 0.2218 \text{ Temperature} (1.399) - 0.5207 \text{ Metropolitan} (-7.141) + 0.2117 \text{ Elderly} (0.9893) + 1.2458 \text{ Construction} (12.80) + 0.670 \text{ Employment Growth} (2.212) + 0.5510 \text{ AFDC} (5.575) - 0.5943 \text{ Tax} (-5.091) + 0.0024 \text{ Debt} (0.0487) - .0024 (-0.0487)$. $R^2 = 0.2864$. A table is available from the authors on request.

We should have been interested to learn whether Chapter 7 bankrupts move around more than the rest of us. One study reported that the last move of one-tenth of their sample of bankrupts was an interstate move, which does not appear to make them more mobile than the average American. See Sullivan, Warren, & Westbrook, *supra* note 42, at 245. The same study reported that Chapter 7 debtors were more mobile than Chapter 13 ones, see *id.* at 245–46, but this is unsurprising since the latter must show that they have a regular income.

⁷⁰ See note 41 *supra*.

that this happens,⁷¹ the incentive to move to take advantage of lower taxes, present or future, is weakened. Third, Ricardian equivalence might not hold, given the possibility of migration. If present debt loads represent future tax liabilities, the migrant might stiff the tax man before he presents the bill by moving to a low-tax jurisdiction. To the extent that a state shifts the tax burden from present to future residents by financing through debt rather than taxes, then, it will retain deadbeat natives and attract deadbeat immigrants.

While migrants regard high taxes as a bad, they view high AFDC payouts as a good. The AFDC coefficient is significant and positive in Table 2, and significant and negative in Table 3. High AFDC payments are associated with high immigration and low emigration flows. This result is consistent with previous studies.⁷² Our finding that migrants dislike taxes but like AFDC payouts might be thought curious, since higher welfare payments must be financed through higher taxes. In some states, the tax repellent might thus swamp the AFDC attractor.⁷³ It is possible, however, that states are sorting themselves out into low-tax and high-welfare magnets. By increasing welfare payouts, for example, a state will trade off welfare lovers for tax haters, attracting the former and repelling the latter.

The results as to our environmental migration predictors were largely those we expected. Distance is significant and negative in both Tables 2 and 3, indicating that long distances are regarded as a bad by both immigrants and emigrants. Since the transportation and psychic costs of moving increase with distance, migrants not surprisingly prefer short to long moves.⁷⁴ The Temperature coefficient is not significant in either table,

⁷¹ See Jagdish N. Bhagwati & John D. Wilson, *Income Taxation and International Mobility* (1989). In the empirical literature, there is no consensus on the extent to which tax differentials are capitalized in land prices. See John Yinger, Howard S. Bloom, Axel Borsch-Supan, & Helen F. Ladd, *Property Taxes and House Values: The Theory and Estimation of Interjurisdictional Property Tax Capitalization* (1988); Kathleen M. Day & Stanley L. Wiener, *Internal Migration and Public Policy: An Introduction to the Issues and a Review of Empirical Research on Canada*, in *Issues in the Taxation of Individuals* (A. Maslove ed. 1994).

⁷² See Richard J. Cebula & B. K. Shaffer, *Analysis of Net Interstate Migration: Comment*, 41 *S. Econ. J.* 690 (1975). For anecdotal reports of AFDC-motivated migration, see note 2 *supra*.

⁷³ This would explain findings in previous studies of a negative correlation between high welfare payouts and immigration flows. See Janet R. Pack, *Determinants of Migration to Central Cities*, 13 *J. Regional Sci.* 249 (1973). See also Alan M. Schlottmann & Henry W. Herzog, *Employment Status and the Decision to Migrate*, 63 *Rev. Econ. & Stat.* 590 (1982) (finding that welfare levels did not appear to influence the decision to emigrate).

⁷⁴ This result is consistent with earlier studies. See Gary S. Fields, *Place-to-Place Migration: Some New Evidence*, 61 *Rev. Econ. & Stat.* 21 (1979).

suggesting that any migration trend to the sunbelt is no longer attributable to the climate.⁷⁵ The Metropolitan coefficient was negative and significant in both tables: urbanized states were seen to repel immigrants in Table 2 and to retain emigrants in Table 3. We found the results in Table 3 a little surprising. A glance at the Census Bureau migration map of regional migration for 1980–88 reveals a broad movement of people from the more urbanized Northeast to the less urbanized South and West,⁷⁶ and we might therefore have expected a positive Metropolitan coefficient for Table 3. Our more detailed study might thus be thought to illustrate the dangers of looking to broad, regional trends. At the level of state-to-state migration which we studied, taking other predictors into account, the effect of urbanization was more ambiguous than appeared on regional maps. The Elderly coefficient was positive and not significant in Table 2 and positive and significant in Table 3. States with a high proportion of Elderly citizens were seen to lose emigrants in Table 3, but we did not detect a retirement haven effect on immigration markets in Table 2. We suspect that this was because retirement migration is heavily concentrated in a few destination states, notably, Florida and Arizona.

Of the economic predictors, the coefficient for Construction was positive and significant in both tables. We would expect that, to the extent that it signals a healthy economy, a high Construction value would be associated with high immigration and low emigration. The positive coefficient for Construction in Table 3 was therefore puzzling. The results for the Employment Growth predictor were more expected: a positive coefficient in Table 2 and a negative one in Table 3.

C. The Instrumental Predictors

Our instrumental predictors of Chapter 7 Bankruptcies in the second equations of Tables 2 and 3 explain about half of the variance in filing rates. As expected, the coefficients for Unemployment, Divorce, and AFDC are significant and positive. Those who are unemployed or recently divorced are more likely to be in financial distress, while a high AFDC payout might make default more attractive. The significant, negative coefficient for Employment Growth was also expected. We might

⁷⁵ This result is consistent with other recent studies. See Michael J. Greenwood & Gary L. Hunt, *Jobs versus Amenities in the Analysis of Metropolitan Migration*, 25 *J. Urban Econ.* 1 (1989). Roback showed that the value of amenities is partially capitalized in higher rents and wages. Jennifer Roback, *Wages, Rents and Amenities: Differences among Workers and Regions*, 26 *Econ. Inquiry* 23 (1988).

⁷⁶ See Department of Commerce, Bureau of the Census *Population Trends of the 1980's*, at 30 (1992).

have expected the coefficients for Construction and Gross State Product to be significant and negative, on the assumption that a booming economy will be associated with a lower bankruptcy filing rate. However, the coefficients for both variables were significant and positive. There are two possible explanations for this result. First, if Chapter 7 Bankruptcies is a deadbeat and not an economic variable, we should not be surprised to see higher filing rates during prosperous times. Second, the anomalous findings might result from our use of 1985 data. While this reduced endogeneity concerns, it also weakened our model, since we were asking a 1985 variable to predict bankruptcy filing rates for the following 5 years.

There were few surprises among the Family Deadbeat predictors in the third equations of Tables 2 and 3. The Unwed Births and Divorce coefficients were both significant and positive. A spouse who is faithless in one respect would appear to be faithless in others as well, and states would seem to sort themselves out along a continuum of promise keepers and promise breakers. As expected, the Joint Custody Dummy was negative and significant. Parents would appear more likely to support their children when they maintain close contact with them through joint custody orders. The Working Women coefficient was also significant and negative. Husbands whose wives are working spend more time with their children and are likely to have a closer attachment to them after divorce. As well, a working wife is less in need of support. This might also explain why the AFDC coefficient is positive. Nonworking wives are more likely to be abandoned when deadbeat dads can offload support obligations onto the state. The Unemployment coefficient was significant and negative, likely because unemployed deadbeats are easier to trace, and their unemployment benefits are easier to garnish. However, we had assumed that spousal misbehavior was more likely to be an urban phenomenon,⁷⁷ and we were surprised to see a negative Metropolitan coefficient.

D. The Rational Migrant Hypothesis

One objection to our model may take the form of an attack on rational expectations in microeconomics. Can one really expect that migrants will know what the bankruptcy or family support collection rates are in each state? And if they do not know this, how can they be said to be influenced by deadbeat laws? The migrant need not know very much about general economic conditions to move from a depressed to a booming economy:

⁷⁷ See David L. Chambers, *What Makes Fathers Pay?* 86–88 (1979), suggesting that personal knowledge of the payors is the most important factor. The top 7 of the 28 counties in Michigan for child support collection were all small counties.

he has only to be laid off in his home state and be offered a new job in another state. By contrast, the causal link might be thought to require a greater mental element when the migrant is said to be motivated by differences in legal regimes.

While this is not the place for a general defense of rational expectations assumptions, we permit ourselves a few words in support of our model. Even if the causal nexus might seem tenuous, the success of a model must be judged on the basis of its predictive ability rather than on intuitions about subjective mental states. For the social scientist, then, what migrants know about bankruptcy or family law is unimportant if bankruptcy law predictors explain migration flows.⁷⁸

Moreover, it is not implausible to suggest that migrants might have a general idea of the legal regime in the state from which they move, or even to which they are moving. When its laws favor deadbeats, a state may acquire a general reputation as a deadbeat haven, with the reputation serving as an informational intermediary. The state's reputation will itself be formed by the separate judgments of individual migrants, and might be better informed than the judgment of any single migrant.⁷⁹ By free riding on the common estimate of mankind, then, an individual migrant might be able to make a sophisticated judgment about the general legal regime in the state to which he is immigrating.

We think it plausible to suggest that family deadbeats are aware of differences in state support duties. Among family lawyers, there appears to be a broad consensus as to which states are deadbeat havens, and the family deadbeat will often have retained a lawyer before he moves.⁸⁰ In particular, noncustodial fathers appear quite aware of the enforcement mechanisms for the payments they are supposed to make. They receive copies of the statutes pertaining to child support enforcement when the court makes its order and are typically assigned a probation officer or "Friend of the Court."⁸¹

⁷⁸ See generally C. L. F. Atfield, D. Demery, & N. W. Duck, *Rational Expectations in Macroeconomics: An Introduction to Theory and Evidence* 26–28 (2d ed. 1991). The locus classicus for this defense of positivism is of course Milton Friedman's *The Methodology of Positive Economics*, in *Essays in Positive Economics* 3 (Milton Friedman 1953).

⁷⁹ Reputational intermediation may therefore coordinate individual action in the same way that prices do on competitive markets. See F. A. Hayek, *The Use of Knowledge in Society*, 35 *Am. Econ. Rev.* 519 (1945), reprinted in F. A. Hayek, *Individualism and Economic Order* 77 (1948).

⁸⁰ Austin Sarat & William L. F. Felstiner, *Lawyers and Legal Consciousness: Law Talk in the Divorce Lawyer's Office*, 98 *Yale L. J.* 1663 (1989).

⁸¹ For a detailed, although somewhat dated, description and empirical investigation of factors leading to collection of child support, see David L. Chambers, *Making Fathers Pay: The Enforcement of Child Support* 79–104 (1979).

E. The Demand for Deadbeats

To say that deadbeat variables explain migration patterns does not mean that states seek deadbeat migrants. In particular, good faith norms in bankruptcy are set by federal judges and not by state politicians. Even if states did not set out to attract deadbeat migrants, however, deadbeat migration would still be of interest as a supply-side phenomenon. In addition, differential good faith norms in bankruptcy might represent something more than a quirk of the law.

Even federal judges might not be immune to interest group pressure. For example, the largest donor in the plaintiffs' bar is said to help screen federal judicial nominations for Senator Dianne Feinstein.⁸² Once appointed, a bankruptcy judge holds office for a 14-year term and is almost as immune from political influence as an Article III federal judge with life tenure.⁸³ Nevertheless, a judge appointed through interest group clout might have bound himself so closely to its ideology that he has little room to change after appointment. An ideological commitment usually represents a durable change in one's preferences, reducing the probability of a future change of opinions.⁸⁴ And even if the ideological pose is insincere, many of us lack the charm to play the Vicar of Bray without a loss of face. Quite apart from durable investments in ideology, deadbeat bankruptcy norms will result in increased work for the bankruptcy bar from which the judge was appointed and to which he may feel continued loyalty.

Differential judicial norms might also be attributed to differences in social norms throughout the country. It is a fallacy to think that people are the same the world over. Americans are very different from Englishmen, and Southerners are very different from New Englanders. Indeed, our article has sought to show that migration trends, bankruptcy rates, and family support norms might in part be explained on the basis of state differences in social norms. We might therefore expect that a judge's moral code will resemble those of his fellow subjects. In this way, we get the law we deserve.

IV. CONCLUSION

This article outlines three explanations for why states seek migrants and tests them by reference to 1985–90 interstate migration. On race-for-

⁸² See Leslie Spencer, *America's Third Political Party?* *Forbes*, October 24, 1994, at 60 (reviewing the influence of the American Trial Lawyer's Association).

⁸³ See *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).

⁸⁴ See Derek Parfit, *Reasons and Persons* (1985).

the-top theories, states compete for value-increasing migrants by offering them healthy economies and efficient laws. On vote-seeking theories, states compete for clienteles of voters, with some states seeking to attract and some to repel welfare- or tax-loving migrants. On deadbeat theories, states compete for high human capital debtors by offering them a fresh start from foreign creditors. In our model, deadbeat and tax variables are found to be significantly correlated with migration flows, supporting deadbeat and vote-seeking migration theories.

We ourselves are migrants, as are most of the people we know. Fellow migrants seem to us more interesting, and perhaps a little brighter, than the few native Virginians we know. As we grow older, however, we find we increasingly prefer natives to migrants.